

CHAPTER 69-10-04 SERVICE REGULATIONS

Section	
69-10-04-01	Registration of Service Persons
69-10-04-01.1	Registration of Service Companies
69-10-04-02	Application for Registration and Permitting of a Service Person
69-10-04-02.1	Self-Certification
69-10-04-02.2	Application for Registration of a Service Company
69-10-04-02.3	Issuing a Placing in Service Permit
69-10-04-03	Revocation of Registration
69-10-04-04	Reports
69-10-04-05	Standardized Report Forms
69-10-04-06	Quality Control - Witnessing
69-10-04-06.1	Quality Control - Failures
69-10-04-06.2	Procedures for the Quality Control of Registered Service Persons
69-10-04-07	Adequate Field Standard Requirements - Exception
69-10-04-08	Devices Taken out of Service [Repealed]

69-10-04-01. Registration of service persons. A registered service person has the authority to certify weighing or measuring devices described in North Dakota Century Code section 64-02-13 and to remove an official rejection, "equipment repair notice", or "not sealed" tag or sticker and place the device in service.

History: Amended effective April 1, 1992; September 1, 1994; July 1, 1997.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-01.1. Registration of service companies. A registered service company has the authority to maintain state-certified field standards and to employ a registered service person to design, install, and repair a commercial weighing or measuring device as described in North Dakota Century Code section 64-02-13.

History: Effective July 1, 1998.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-02. Application for registration and permitting of a service person. Annual application for registration as a registered service person must be submitted to the commission under the following requirements:

1. A first-time applicant shall:
 - a. Provide a written history of education and work experience to show that the applicant is fully qualified to repair, test, and certify a commercial weighing or measuring device;

- b. Score seventy-five percent or more on commission testing taken from applicable sections of the adopted edition of the NIST Handbook No. 44, and from weights and measures sections of the North Dakota Century Code and North Dakota Administrative Code;
 - c. Complete written tests that are required to obtain a permit as a registered service person. Tests must be taken at the commission's metrology lab in Bismarck, North Dakota, and must be administered as follows:
 - (1) A written test will be open book, with seventy-five percent as the minimum passing score; and
 - (2) In the case of a test failure, an alternate test date may be scheduled after a review period of ten working days; and
 - d. Each applicant registered by the commission shall utilize adequate standards during the testing and certification of a commercial device.
- 2. An applicant who is applying for renewal of an existing registration shall complete and submit the application at least fifteen days prior to the expiration date of the applicant's existing registration. Each applicant who has renewed an existing registration shall utilize adequate standards during the testing and certification of a commercial device.

History: Amended effective April 1, 1992; September 1, 1994; July 1, 1997; January 1, 2002; May 1, 2005.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-02.1. Self-certification. Self-certification to repair, test, and certify an operator's own commercial weighing and measuring devices is permitted only as provided in this section:

- 1. Only hazardous liquid pipeline operators, North Dakota highway patrol, natural gas pipeline operators, and manufacturing-processing operators may self-certify;
- 2. Applications must be submitted to the commission in writing;
- 3. Commission approval is required annually; and
- 4. Applications must address the following conditions:
 - a. The person doing the self-certification must be registered with the commission under section 69-10-04-02. However, persons or companies who make written application to the commission

describing their weighing or measuring devices, operating and maintenance procedures, testing processes including a list of testing technicians and their expertise, and reporting requirements, subject to commission approval, may be exempt from the provisions of section 69-10-04-02, except for subdivision d of subsection 1 and subdivision b of subsection 2 of section 69-10-04-02.

- b. Upon testing, the device must be within commission-approved tolerance.
- c. Whenever a weighing or measuring device is recertified, the person or company recertifying that device shall, within seven working days, report the recertification to the commission. The report must clearly identify each device, the initial test results recorded during self-certification, and the test results upon recertification.
- d. A weights and measures inspector may randomly recertify any self-certified weighing or measuring device either by performing a test or by witnessing a test performed by a self-certified service person.

History: Effective April 1, 1992; amended effective August 1, 1993; September 1, 1994; July 1, 1997; January 1, 2002; May 1, 2005.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-02.2. Application for registration of a service company. An annual application for registration as a registered service company must be filed with the commission prior to conducting any service work on commercial weighing or measuring devices and must include:

- 1. Acceptable evidence that all of the service standards used to test and approve commercial weighing or measuring devices have been certified under section 69-10-03-02;
- 2. A copy of the company's standardized report form, if not currently on file with the commission, as required by section 69-10-04-05;
- 3. A sample of the company's "tested and approved" sticker and internal seals, if not currently on file with the commission, as required by section 69-10-01-03; and
- 4. An application for registration.

History: Effective July 1, 1998; amended effective May 1, 2005.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-02.3. Issuing a placing in service permit. Upon acceptance and approval of an application, the commission shall issue a placing in service permit to the applicant. All permits issued under this section remain the property of the commission and must be surrendered upon demand. Permits issued will be either probationary or permanent as defined in this section.

1. Probationary permits.

- a. An applicant with less than three months' experience repairing and placing devices into service will receive a probationary permit;
- b. The duration of a probationary permit will be at the discretion of the testing and safety division director but will not exceed six months from the date of testing; and
- c. A probationary permitholder shall be accompanied by, and have each placing in service test report cosigned by, a permanent permitholder from the same service company in order for the test report or the placing in service to be considered valid.

2. Permanent permits.

- a. An applicant with more than three months' experience repairing and placing devices into service will receive a permanent permit;
- b. An applicant who has been previously tested and issued a permanent permit by the commission within the last five years, but has allowed it to expire, will receive a permanent permit; or
- c. A probationary permitholder who has completed probationary time assigned without receiving any quality control failures will receive a permanent permit.

History: Effective May 1, 2005.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-03. Revocation of registration. The commission may, for good cause, suspend or revoke a registered service person's permit or a registered service company's permit. A person or a company not registered with the commission but qualified to install a commercial weighing or measuring device may install but may not service, repair, or recondition a commercial weighing or measuring device without a variance from the commission.

History: Amended effective April 1, 1992; July 1, 1997; July 1, 1998; October 1, 1999.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-04. Reports. A registered service person must, within seven working days, send a test report on all commercial weighing or measuring devices certified, recertified, serviced, or inspected and tested by the person to the commission, and shall furnish a copy of the test report to the owner or operator of the device.

History: Amended effective April 1, 1992; August 1, 1993; September 1, 1994; July 1, 1997.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-05. Standardized report forms. All test report forms filed with the commission after July 1, 1994, must be in a format. The commission will issue copies of the standardized prototype to all newly permitted registered service companies.

History: Effective August 1, 1993; amended effective February 1, 1996; October 1, 1999.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-06. Quality control - Witnessing. The commission may observe or reinspect work performed by a registered service person to ensure that the person is performing proper inspections and tests. The commission shall consider the following criteria while evaluating that person:

1. The results of a random sampling of at least one inspection and test per year, or more if so ordered by the commission, of the devices certified by a registered service person;
2. Complaints filed against a registered service person, and whether those complaints are valid; and
3. Other factors deemed relevant by the commission.

The quality control reinspection must be completed within forty-five days of the date the work is completed by the registered service person and at no charge.

History: Effective September 1, 1994; amended effective February 1, 1996; October 1, 1999.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-06.1. Quality control - Failures. Quality control failures must include the outcome of any actual quality control inspections and tests, and any violations of title 64 of the North Dakota Century Code, title 69 of the North Dakota Administrative Code, and any applicable sections of the NIST Handbook No. 44, as adopted by reference in section 69-10-03-01. If a registered service person

fails three consecutive quality control inspections within a twelve-month period, the commission may:

1. Issue either a verbal warning or a formal warning letter requiring remedial action within thirty days from the date of the warning;
2. Schedule a conference with the division director or chief inspector, the registered service person, and that person's supervisor;
3. Require that the registered service person retake the written tests required for licensing under section 69-10-04-02;
4. Reduce the registered service person's permit status to probationary for up to six months; and
5. Suspend the registered service person's permit and assess a civil penalty.

The results of any quality control failures and associated enforcement actions may be sent to the individual permitholder's company or to the owner or operator of the affected device.

Any quality control failures and associated enforcement actions must be kept on file as part of the overall quality control profile of the registered service person for a twelve-month period from the date of the failure.

History: Effective October 1, 1999; amended effective May 1, 2005.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-06.2. Procedures for the quality control of registered service persons. A quality control inspection of a registered service person will be conducted as set forth in this section:

1. Quality control inspection selection criteria is as follows:
 - a. Established by permitholder number;
 - b. Set at one percent, or one of every one hundred placing in services, of average annual production;
 - c. Location of the device versus location of the state inspector is a controlling factor;
 - d. Each permitholder whose annual production is less than twenty will be placed into a special pool of which ten percent will have a quality control performed each year.

- e. Average annual production must be based upon the previous inspection year totals.
2. A permanent permitholder who receives multiple quality control inspections within a twelve-month period because the holder has logged a large number of placing in services, and, has received a "pass" on the first scheduled quality control inspection for that time period, will receive an "honorary pass" on the second scheduled quality control inspection. If the number of placing services requires a third quality control inspection for which the holder receives a "pass", the fourth scheduled quality control will again be an "honorary pass".
3. The quality control inspection may be based upon the applicable tolerance, acceptance or maintenance tolerance, or design requirements that are applicable to the device.
4. The quality control inspection must be completed within forty-five days from the date of the permitholder's test report.
5. A specific quality control inspection ends when the device either fails a portion of the inspection or it passes the inspection.
6. If a device fails a quality control inspection, the failed quality control is documented for that permitholder, the device is rejected, and a quality control inspection must be scheduled as soon as practicable on the next device placed into service by the permitholder responsible for the previous quality control failure.
7. At the discretion of the division director, weights and measures inspectors may conduct quality control inspections of self-certifying permitholders either by performing a test on that holder's device or by witnessing the testing of a device by the self-certified permitholder.

History: Effective May 1, 2005.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-07. Adequate field standard requirements - Exception.

All state weights and measures inspectors and registered service companies shall make available minimum test weights and test loads as required by NIST Handbook No. 44, table 4, during tests of commercial weighing devices. However, during highway load restrictions as announced by the North Dakota department of transportation, shift tests, load-bearing tests, and section tests required by section 69-10-02-21 and NIST Handbook No. 44, table 4, may be performed with a test load of ten thousand pounds [4535.9 kilograms].

History: Effective July 1, 1998.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-08. Devices taken out of service. Repealed effective May 1, 2005.